U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

[redacted]

Date: SEP 0 8 2014 Office: NEBRASKA SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

APPLICATION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A).

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition on February 11, 2013. The petitioner subsequently filed a motion to reopen and reconsider, which the director dismissed on September 9, 2013. The appeal of the dismissal of the motion to reopen is now before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner seeks classification as an "alien of extraordinary ability" in the sciences, as a sports scientist and psychologist, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, the petitioner asserts that the director erred by denying the petition after finding that the petitioner met at least three of the evidentiary criteria. The petitioner also asserts that there is sufficient evidence in the record to demonstrate that she plans to work in her field of endeavor in the United States. The appeal must address the director's most recent decision.

For the reasons discussed below, we uphold the director's ultimate conclusion that the petitioner has not established eligibility for the exclusive classification sought.

I. LAW

Section 203(b) of the Act states, in pertinent part, that:

> (1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --
> >
> > > (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
> > >
> > > (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, international recognized award) or through the submission of qualifying evidence under at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld our decision to deny the petition, the court took issue with our evaluation of evidence submitted to meet a given evidentiary criterion.[1] With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that our evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. While the director concluded that the petitioner met at least three of the ten regulatory categories of evidence, we find that the petitioner met only two of the criteria. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis). Therefore, as the petitioner did not submit qualifying evidence under at least three criteria, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of three types of evidence.

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[1] Specifically, the court stated that we had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi).

II. INTENT TO CONTINUE TO WORK IN THE AREA OF EXPERTISE

The director determined that the petitioner did not sufficiently demonstrate that she would continue to work in her field in the Unites States. The regulation at 8 C.F.R. § 204.5(h)(5) provides that as evidence, an alien may "include letter(s) from prospective employer(s), evidence of pre-arranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States." The record contains multiple statements that the petitioner submitted during the proceedings in which she details how she intends to continue her work. Accordingly, the petitioner has satisfied this evidentiary requirement.

We note that in Part 5 of Form I-140, Immigrant Petition for Alien Worker, the petitioner listed her occupation as a "Sports Scientist." In addition, in Part 6, the petitioner listed her proposed job title as "Sports Scientist/Psychologist." Thus, the record reflects that the petitioner is not seeking classification as an alien of extraordinary ability as a competitor. Even though the petitioner submitted documentation regarding her years as a competitor, the record reflects the petitioner intends to work in the United States as a "Sports Scientist." We also note that the petitioner submitted evidence of her Ph.D. in Motor Learning and Development, but did not submit any evidence that she holds a degree in psychology or sports psychology.

The statute and regulations require the petitioner's national or international acclaim to be *sustained* and that she seeks to continue work in her area of expertise in the United States. *See* sections 203(b)(1)(A)(i) and (ii) of the Act, 8 U.S.C. §§ 1153(b)(1)(A)(i) and (ii), and 8 C.F.R. §§ 204.5(h)(3) and (5). While the petitioner's history as a competitor may provide a useful background in her current field, competition is not the same area of expertise as sports science. In *Lee v. I.N.S.*, 237 F. Supp. 2d 914 (N.D. Ill. 2002), the court stated:

> It is reasonable to interpret continuing to work in one's "area of extraordinary ability" as working in the same profession in which one has extraordinary ability, not necessarily in any profession in that field. For example, Lee's extraordinary ability as a baseball player does not imply that he also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or coach.

Id. at 918. The court noted a consistent history in this area. There is no evidence indicating that the petitioner intends to compete as an athlete in the United States. While we acknowledge the possibility of an alien's extraordinary claim in more than one field, the petitioner must demonstrate "by clear evidence that the alien is coming to the United States to continue work in the area of expertise." *See* 8 C.F.R. § 204.5(h)(5).

Based on the petitioner's answers to the questions on Form I-140 and the submitted documentation, the record reflects that the petitioner intends to continue to work in the area of sports science, rather than competition. Ultimately, the petitioner must satisfy the regulation at 8 C.F.R. § 204.5(h)(3) through her achievements as a sports scientist. As such, the evidence submitted by the petitioner regarding her achievements as a competitor will not be considered here.

III. ANALYSIS

A. Evidentiary Criteria[2]

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." Moreover, it is the petitioner's burden to establish that the evidence meets every element of this criterion. Not only must the petitioner demonstrate her receipt of prizes and awards, she must also demonstrate that those prizes and awards are nationally or internationally recognized for excellence in the field of endeavor, which, by definition, means that they are recognized beyond the awarding entity.

As stated by the director in his September 9, 2013 decision, the petitioner, on motion, as on appeal, asserts that only two of her awards, the "[redacted]" and the "[redacted]" satisfy this criterion. Thus, the petitioner has abandoned any claim regarding the other awards previously claimed. *See Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir.2005); *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885 at *9 (E.D. N.Y. Sept. 30, 2011).

While the director acknowledged that individuals not affiliated with the [redacted] won awards from the university, the director found that the petitioner failed to establish that her awards are nationally or internationally recognized by the sports science community. On appeal, the petitioner repeats her previous claims without specifically addressing any of the director's findings. The petitioner also fails to provide any additional evidence or offer any additional arguments identifying any errors of law or fact in the director's analysis. Therefore, the petitioner has abandoned this issue. *Desravines v. United States Attorney General*, No. 08-14861, 343 F. App'x 433, 435 (11th Cir. 2009) (finding that issues not briefed on appeal are deemed abandoned).

Nevertheless, on appeal and on motion, the petitioner states that the awards were given at "a convention held by the [redacted]" The petitioner asserts that the awards are nationally and internationally recognized because the [redacted] is "the number one university in all of [redacted]" and because other distinguished individuals have won awards from the same university. The record, however, does not contain any evidence which establishes the national or international recognition of a convention held by the [redacted] The letters referencing the awards contain a logo for the "First convention for the epilogue, research and chosen book of physical education and the [s]cience of [a]thletics." Many professional fields regularly hold conferences and symposia to present new work, discuss new findings, and to network with other professionals. These conferences are promoted and sponsored by professional associations, trade groups, businesses, educational institutions, and government agencies. Furthermore, according to the certified translations the petitioner submitted, "on the basis of the vote of the arbitrators on the

[2] The petitioner does not claim to meet or submit evidence relating to the regulatory categories of evidence not discussed in this decision.

committee," the petitioner's book and epilogue "were chosen," but the translations do not identify the award, if any, for which the book and epilogue "were chosen." Regarding awards won by other distinguished individuals, the fact that other individuals, regardless of their reputation, have also won an award from the does not establish that the petitioner's award from this university is internationally or nationally recognized. In addition, there is no evidence that any of those individuals received the same awards as the petitioner.

In light of the above, the petitioner has not established that she meets the plain language requirements of this regulatory criterion.

> *Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

The director determined on motion that the petitioner established eligibility for this criterion based upon her membership in the , the and the The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." A review of the record of proceeding, however, does not reflect that the petitioner submitted sufficient documentary evidence establishing that she meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii).

It is the petitioner's burden to demonstrate that she meets every element of a given criterion. In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation. Finally, the plain language requires the petitioner's membership in more than one association. Significantly, not all of the criteria at 8 C.F.R. § 204.5(h)(3) are worded in the plural. Specifically, the regulations at 8 C.F.R. §§ 204.5(h)(3)(iv) and (ix) only require service on a single judging panel or a single high salary. When a regulatory criterion wishes to include the singular within the plural, it expressly does so as when it states at 8 C.F.R. § 204.5(k)(3)(ii)(B) that evidence of experience must be in the form of "letter(s)." Thus, we can infer that the plural in the remaining regulatory criteria has meaning. In a different context, federal courts have upheld USCIS' ability to interpret significance from whether the singular or plural is used in a regulation. *See Maramjaya v. USCIS,* Civ. Act. No. 06-2158 (RCL) at 12 (D.C. Cir. March 26, 2008); *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005 at *10 (D. Or. Nov. 30, 2006) (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(l)(2) requires a single degree rather than a combination of academic credentials).

A review of the record establishes that the petitioner's membership in the

meets the plain language requirements of this criterion, as determined by the director in his September 9, 2013 decision. The by-laws specifically state that "members…are experts in the relevant specialty duties of the Commission." Contrary to the director's decision, however, the record does not contain evidence that the or the , requires outstanding achievements of its members. According to the constitution of the , "members of the executive panel have to be at least 35 years of age and no more than 65 years old. They have to have at least a bachelor's degree or the equivalent and at least 5 years management experience." Furthermore, based upon the information in the record, the petitioner is a member of the women's committee, not the executive panel. Regarding the although the record contains documentation that the petitioner was "appointed" to two committees, the record does not contain the by-laws, constitution or any other information which establishes that membership requires outstanding achievements of its members.

The petitioner asserts that her membership in The and the also satisfy this criterion. According to the "Statutes of " "[t]he Academy may accept as members those individuals who are recognized as qualified to contribute to the promotion of its objectives and shall issue membership cards for them accordingly." As stated by the petitioner on motion, the by-laws are not available for the . Although the record contains evidence of the petitioner's membership in these two organizations, there is no evidence that either organization requires outstanding achievements of its members.

Submitting documentary evidence reflecting membership status is insufficient to meet the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) without documentary evidence demonstrating that the petitioner is a member of associations requiring outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

As the petitioner only demonstrated a single qualifying membership, she has not established that she meets the plain language requirements of this regulatory criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The director determined that the petitioner established eligibility for this criterion. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iv) requires "[e]vidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought." A review of the record of proceeding reflects that the petitioner submitted sufficient documentary evidence, including reviewing articles for two publications, establishing that she meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iv).

Accordingly, the petitioner meets this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The director determined that the petitioner established eligibility for this criterion. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vi) requires "[e]vidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." A review of the record of proceeding reflects that the petitioner submitted sufficient documentary evidence, including evidence that she co-authored an article published in the , establishing that she meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vi).

Accordingly, the petitioner meets this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The director determined that "there is no evidence to suggest the beneficiary acted in a leading or critical role when compared to the organization as a whole." We also note that, although the director stated that, on motion, the petitioner "limited the argument to two specific roles for and the …and therefore any additional roles discussed in the original record have been considered dropped by the petitioner," the petitioner did include excerpts from the Although the petitioner did not specifically contest the director's finding that the petitioner was only claiming a leading or critical role for two organizations, we will consider her role for the , but consider any claims regarding roles other than these three as abandoned. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885, at *9.

The director's decision specifically found that, regarding the roles for the and the the record did not contain evidence "which distinguishes the [] [petitioner] from other members or individuals in similar positions, let alone more senior members and management." On appeal, the petitioner repeats her previous claims verbatim without specifically addressing any of the director's findings. The petitioner also fails to provide any additional evidence or offer any additional arguments identifying any errors of law or fact in the director's analysis. Therefore, the petitioner has abandoned any claims related to these two roles. *Desravines v. United States Attorney General*, No. 08-14861, 343 F. App'x 433, 435 (11th Cir. 2009) (finding that issues not briefed on appeal are deemed abandoned).

Any organization or establishment that retains the services of an individual requires someone competent to provide those services. In the case of a leading role, the petitioner must demonstrate how her role fits within the overall hierarchy of the organization or establishment. In the case of a critical role, the petitioner must have contributed to the success of the establishment or organization beyond merely providing necessary services.

The petitioner asserts that she "performs a critical and leading role for the as advisor of 'intellectual skills' and coordinator of activities between the and the " According to the appointment letter from Doctor , President of the the petitioner "is appointed as the advisor of intellectual skills for the " and "will be charged with elevating the psychological readiness of the for their presence in the 2008 ." A letter of appointment to a future position without additional evidence to demonstrate how the petitioner "has performed in a leading or critical role" is insufficient to satisfy the plain language of this criterion. Furthermore, the fact that the President of the Academy signed the appointment letter does not, by itself, mean that the petitioner performed in a leading or critical role.

The petitioner, as stated above, also relies on the " " to demonstrate that she "performed a critical and leading role in implementing the objectives, aims and duties of the Academy." The petitioner fails to explain how adhering to the statutes is equivalent to performing in either a leading or a critical role.

Finally, even if we found that the petitioner performed in a leading or critical role for the Academy, and we do not, the plain language requires the petitioner's leading or critical role for more than one organization or establishment. As previously discussed, the use of the plural is consistent with the statutory requirement for extensive evidence. Section 203(b)(1)(A)(i) of the Act.

In light of the above, the petitioner has not established that she meets the plain language requirements of this regulatory criterion.

B. Summary

In light of the above, the petitioner has not satisfied the antecedent regulatory requirement of three types of evidence. However, as the director performed a final merits determination, we will also consider all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2); and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(3). *See Kazarian,* 596 F.3d at 1119-20.

C. Final Merits Determination

The regulation at 8 C.F.R. § 204.5(h)(3) provides that "[a] petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." The petitioner's evidence must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), therefore, depends on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition

of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

Regarding the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv), the director found that "the petitioner has not submitted any evidence regarding the requirements for selection to" her role "as a reviewer and editor," that "[t]here is no evidence to suggest…that only those at the very top of the field are considered," and that "the petitioner has not established the print history of the publications, the average or annual readership, or the criteria and guidelines for how these journals select articles for publishing." Contrary to the petitioner's assertions on appeal, the nature of the petitioner's judging experience is a relevant consideration as to the whether the evidence is indicative of the petitioner's national or international acclaim pursuant to a final merits determination. *See Kazarian*, 596 F.3d at 1122. The petitioner, on appeal, did not provide any additional evidence which, as stated by the director in his decision, would "establish [] [the petitioner] as one of the small percentage who are at the very top of the field."

The petitioner also asserts that her membership in the qualifies as judging as "[i]t is both reasonable and logical to assume that as a member of the her activities corresponded with her expertise in Sport Science and that the committee reviewed scientific findings and concepts to determine those that were promising or relevant to sport." The petitioner, however, failed to provide any evidence which establishes that the petitioner acted as a judge of the work of others in the field of sports science as part of her membership on any committee. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Regarding the authorship of scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi), the petitioner is correct that the director did use language from the contributions criterion at 8 C.F.R. § 204.5(h)(3)(v) during part of his determination. The director, however, also found that "[t]he submitted evidence and independent verification of the petitioner's citations does not indicate a record of achievement and acknowledgement in accordance with the small percentage who are at the very top of your field" and that "[a]uthorship and publication is a normal part of a researcher's duties." Pursuant to the reasoning in *Kazarian*, 596 F. 3d at 1122, the field's response to the petitioner's articles may be considered in the final merits. On appeal, the petitioner also asserts that the "presentation of her published research in various international congresses or symposia…are indicative of her peers' consideration of her work as significant," but does not provide any additional evidence regarding the field's response to the petitioner's articles and presentations upon dissemination. Publication and presentation of one's work is common in the sciences and without evidence which demonstrates the field's response to the petitioner's articles and presentations, the petitioner cannot be found to be one of the small percentage at the top of her field.

As the petitioner did not satisfy the antecedent regulatory requirement of three types of evidence, the petitioner cannot be found to qualify for approval of an extraordinary ability employment-based visa petition. To find otherwise would contravene the regulatory requirement at 8 C.F.R. § 204.5(h)(2) that

this visa category be reserved for "that small percentage of individuals that have risen to the very top of their field of endeavor."

The conclusion we reach by considering the evidence to meet each category of evidence at 8 C.F.R. § 204.5(h)(3) separately is consistent with a review of the evidence in the aggregate. Ultimately, the evidence in the aggregate does not distinguish the petitioner as one of that small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The petitioner seeks a highly restrictive visa classification, intended for individuals at the top of their respective fields of endeavor.

The truth is to be determined not by the quantity of evidence alone, but by its quality. *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010) citing *Matter of E-M-* 20 I&N Dec. 77, 80 (Comm'r 1989).

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

The petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.